

Bill No. SB 1454

Barcode 863606

591-1990B-06

Proposed Committee Substitute by the Committee on Criminal Justice

1 A bill to be entitled

2 An act relating to juvenile sexual offenders;

3 amending s. 985.03, F.S.; defining the terms

4 "psychosexual evaluation" and "qualified sexual

5 offender practitioner"; amending s. 985.229,

6 F.S.; requiring the court to order a

7 psychosexual evaluation for a juvenile sexual

8 offender; specifying requirements for provision

9 of the psychosexual evaluation results and

10 recommendations to the court; amending s.

11 985.23, F.S.; requiring a predisposition report

12 to include an evaluation of the results and

13 recommendations of a psychosexual evaluation;

14 amending s. 985.231, F.S.; conforming a

15 cross-reference; requiring the court to

16 consider the psychosexual evaluation prior to

17 requiring that an offender be treated by a

18 community-based juvenile sexual offender

19 treatment program; deleting provisions

20 authorizing a comprehensive assessment of

21 sexually deviant behavior; revising provisions

22 to conform; amending ss. 985.31 and 985.3141,

23 F.S.; conforming cross-references; creating a

24 task force on juvenile sexual offenders and

25 their victims; providing for membership;

26 providing duties; requiring that the task force

27 submit a report to the Governor and the

28 Legislature; providing for administrative

29 support; authorizing payment of per diem and

30 travel expenses; providing for dissolution of

31 the task force; providing an effective date.

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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Present subsections (45) through (60) of
4 section 985.03, Florida Statutes, are renumbered as
5 subsections (47) through (62), respectively, and new
6 subsections (45) and (46) are added to that section, to read:

7 985.03 Definitions.--As used in this chapter, the
8 term:

9 (45) "Psychosexual evaluation" means an evaluation by
10 a qualified sexual offender practitioner which addresses, at a
11 minimum, a juvenile sexual offender's:

12 (a) Account of the incident and the official report of
13 the investigation.

14 (b) Sexual development and sexual delinquency history
15 and treatment.

16 (c) Behavioral and delinquency history.

17 (d) Substance abuse and mental health history and
18 treatment.

19 (e) Intellectual, personality, and trauma assessment.

20 (f) Physiological assessment, if appropriate.

21 (g) Family, social, educational, and employment
22 situation, including identification of the sources of this
23 information.

24 (h) Risk for committing a future act of sexual
25 delinquency or physical harm to himself, herself, the victim,
26 or other persons.

27 (i) Culpability assessment.

28 (j) Diagnosis.

29 (k) Amenability to treatment, including treatment
30 recommendations specific to his or her needs.

31 (46) "Qualified sexual offender practitioner" means a

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1 professional who is eligible to practice juvenile sexual
2 offender therapy under s. 490.0145 or s. 491.0144, and who:

3 (a) Possesses at least:

4 1. Fifty-five hours of postgraduate continuing
5 education courses in the following areas: DSM-IV diagnoses
6 related to sexual offenders; etiology of sexual deviance;
7 science-based sexually delinquent evaluation and risk
8 assessment and treatment techniques; use of plethysmographs,
9 visual reaction time, and polygraphs in the evaluation,
10 treatment, and monitoring of juveniles who have committed
11 sexually delinquent acts; evaluation and treatment of special
12 populations; and legal and ethical issues in the evaluation
13 and treatment of juveniles who have committed sexually
14 delinquent acts; or

15 2. Two thousand hours of postgraduate level practice
16 in the evaluation and treatment of persons who have committed
17 sexually delinquent acts which was directly supervised by a
18 professional who is eligible to practice juvenile sexual
19 offender therapy under s. 490.0145 or s. 491.0144; or

20 (b) Is supervised by a professional who satisfies the
21 requirements of paragraph (a).

22 Section 2. Subsection (4) is added to section 985.229,
23 Florida Statutes, to read:

24 985.229 Predisposition report; other evaluations.--

25 (4) Following a delinquency adjudicatory hearing under
26 s. 985.228 for a juvenile sexual offender, the court shall
27 order the department to conduct or arrange for a psychosexual
28 evaluation of the offender. The results and recommendations of
29 the psychosexual evaluation shall be:

30 (a) Included in the offender's predisposition report;
31 or

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(b) Provided to the court in writing at least 48 hours prior to the disposition hearing if a predisposition report is not ordered in the juvenile sexual offender's case.

Section 3. Paragraph (i) is added to subsection (2) of section 985.23, Florida Statutes, to read:

985.23 Disposition hearings in delinquency cases.--When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(2) The first determination to be made by the court is a determination of the suitability or unsuitability for adjudication and commitment of the child to the department.

This determination shall include consideration of the recommendations of the department, which may include a predisposition report. The predisposition report shall include, whether as part of the child's multidisciplinary assessment, classification, and placement process components or separately, evaluation of the following criteria:

(i) The results and recommendations of a psychosexual evaluation for a juvenile sexual offender.

At the time of disposition, the court may make recommendations to the department as to specific treatment approaches to be employed.

Section 4. Subsections (2) and (3) of section 985.231, Florida Statutes, are amended to read:

985.231 Powers of disposition in delinquency cases.--

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its own or upon request by

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1 the state or the department, determine whether the protection
2 of the public requires that the child be placed in a program
3 for serious or habitual juvenile offenders and whether the
4 particular needs of the child would be best served by a
5 program for serious or habitual juvenile offenders as provided
6 in s. 985.31. The determination shall be made pursuant to ss.
7 985.03(51) ~~985.03(49)~~ and 985.23(3).

8 (3)(a) Following a delinquency adjudicatory hearing
9 pursuant to s. 985.228 for a juvenile sexual offender, the
10 court, after consideration of the psychosexual evaluation
11 required by s. 985.229(4), may on its own or upon request by
12 the state or the department and subject to specific
13 appropriation, determine whether treatment by a
14 community-based juvenile sexual offender treatment program
15 would protect ~~placement is required for the protection of the~~
16 ~~public and what would be the best approach to address the~~
17 ~~offender's treatment needs of the juvenile sexual offender.~~
18 ~~When the court determines that a juvenile has no history of a~~
19 ~~recent comprehensive assessment focused on sexually deviant~~
20 ~~behavior, the court may, subject to specific appropriation,~~
21 ~~order the department to conduct or arrange for an examination~~
22 ~~to determine whether the juvenile sexual offender is amenable~~
23 ~~to community-based treatment.~~

24 (a) ~~The report of the examination shall include, at a~~
25 ~~minimum, the following:~~

- 26 1. ~~The juvenile sexual offender's account of the~~
27 ~~incident and the official report of the investigation.~~
- 28 2. ~~The juvenile sexual offender's offense history.~~
- 29 3. ~~A multidisciplinary assessment of the sexually~~
30 ~~deviant behaviors, including an assessment by a certified~~
31 ~~psychologist, therapist, or psychiatrist.~~

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~~4. An assessment of the juvenile sexual offender's family, social, educational, and employment situation. The report shall set forth the sources of the evaluator's information.~~

~~(b) The report shall assess the juvenile sexual offender's amenability to treatment and relative risk to the victim and the community.~~

~~(b)(c)~~ The department shall provide a proposed plan to the court which must ~~that shall~~ include, at a minimum for the community-based juvenile sexual offender treatment program:

1. The frequency and type of contact between the offender and therapist.

2. The specific issues and behaviors to be addressed in the treatment and description of planned treatment methods.

3. Monitoring plans, including any requirements regarding living conditions, school attendance and participation, lifestyle, and monitoring by family members, legal guardians, or others.

4. Anticipated length of treatment.

5. Recommended crime-related prohibitions and curfew.

6. Reasonable restrictions on the contact between the ~~juvenile sexual~~ offender and either the victim or alleged victim.

~~(c)(d)~~ After receipt of the ~~report on the~~ proposed plan under paragraph (b) ~~of treatment~~, the court shall consider whether the community and the offender will benefit from treatment proved by a community-based ~~use of~~ juvenile sexual offender ~~community-based~~ treatment program ~~alternative disposition~~ and consider the opinion of the victim or the victim's family as to whether the offender should receive this ~~a community-based treatment~~ alternative disposition ~~under this~~

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1 subsection.

2 (d)(e) If the court determines that a community-based
3 ~~this~~ juvenile sexual offender ~~community-based~~ treatment
4 program ~~alternative~~ is appropriate, the court may place the
5 offender on probation ~~community supervision~~ for up to 3 years.
6 As a condition of probation ~~community treatment and~~
7 ~~supervision~~, the court may order the offender to:

8 1. Undergo available community-based ~~outpatient~~
9 juvenile sexual offender treatment for up to 3 years. A
10 program or provider may not be used for such treatment unless
11 it has an appropriate program designed for juvenile sexual
12 offender treatment. The department shall not change the
13 treatment provider without first notifying the state
14 attorney's office.

15 2. Remain within described geographical boundaries and
16 notify the court or the department ~~counselor~~ prior to any
17 change in the offender's address, educational program, or
18 employment.

19 3. Comply with all requirements of the treatment plan.

20 (e)(f) The community-based juvenile sexual offender
21 treatment provider shall submit quarterly reports on the
22 offender's ~~respondent's~~ progress in treatment to the court and
23 the parties to the proceedings. The quarterly ~~juvenile sexual~~
24 ~~offender~~ reports shall reference the treatment plan and
25 include, at a minimum, the following:

26 1. Dates of attendance.

27 2. The ~~juvenile sexual~~ offender's compliance with the
28 requirements of treatment.

29 3. A description of the treatment activities.

30 4. The ~~sexual~~ offender's relative progress in
31 treatment.

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1 5. The offender's family support of the treatment
2 objectives.

3 6. Any other material specified by the court at the
4 time of the disposition.

5 ~~(f)(g)~~ At the disposition hearing, the court may set
6 case review hearings as the court considers appropriate.

7 ~~(g)(h)~~ If the ~~juvenile sexual~~ offender violates any
8 condition of the disposition or the court finds that the
9 ~~juvenile sexual~~ offender is failing to make satisfactory
10 progress in treatment, the court may revoke the offender's
11 probation ~~community-based treatment alternative~~ and order
12 commitment to the department pursuant to subsection (1).

13 ~~(h)(i)~~ If the court determines that the ~~juvenile~~
14 ~~sexual~~ offender is not amenable to a community-based juvenile
15 sexual offender treatment program, the court shall proceed
16 with a juvenile sexual offender disposition hearing pursuant
17 to subsection (1).

18 Section 5. Paragraph (e) of subsection (3) and
19 paragraph (a) of subsection (4) of section 985.31, Florida
20 Statutes, are amended to read:

21 985.31 Serious or habitual juvenile offender.--

22 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
23 TREATMENT.--

24 (e) After a child has been adjudicated delinquent
25 pursuant to s. 985.228, the court shall determine whether the
26 child meets the criteria for a serious or habitual juvenile
27 offender pursuant to s. 985.03(51) ~~s. 985.03(49)~~. If the court
28 determines that the child does not meet such criteria, the
29 provisions of s. 985.231(1) shall apply.

30 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

31 (a) Pursuant to the provisions of this section, the

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1 department shall implement the comprehensive assessment
2 instrument for the treatment needs of serious or habitual
3 juvenile offenders and for the assessment, which assessment
4 shall include the criteria under s. 985.03(51) ~~s. 985.03(49)~~
5 and shall also include, but not be limited to, evaluation of
6 the child's:

- 7 1. Amenability to treatment.
- 8 2. Proclivity toward violence.
- 9 3. Tendency toward gang involvement.
- 10 4. Substance abuse or addiction and the level thereof.
- 11 5. History of being a victim of child abuse or sexual
12 abuse, or indication of sexual behavior dysfunction.
- 13 6. Number and type of previous adjudications, findings
14 of guilt, and convictions.
- 15 7. Potential for rehabilitation.

16 Section 6. Section 985.3141, Florida Statutes, is
17 amended to read:

18 985.3141 Escapes from secure detention or residential
19 commitment facility.--An escape from:

20 (1) Any secure detention facility maintained for the
21 temporary detention of children, pending adjudication,
22 disposition, or placement;

23 (2) Any residential commitment facility described in
24 s. 985.03(48) and ~~s. 985.03(46)~~, maintained for the custody,
25 treatment, punishment, or rehabilitation of children found to
26 have committed delinquent acts or violations of law; or

27 (3) Lawful transportation to or from any such secure
28 detention facility or residential commitment facility,

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30 constitutes escape within the intent and meaning of s. 944.40
31 and is a felony of the third degree, punishable as provided in

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s. 775.082, s. 775.083, or s. 775.084.

Section 7. Task Force on Juvenile Sexual Offenders and Their Victims.--

(1) As used in this section, the term:

(a) "Department" means the Department of Juvenile Justice.

(b) "Task force" means the 2006 Task Force on Juvenile Sexual Offenders and Their Victims.

(2) By August 1, 2006, a task force shall be created to continue the evaluation of the state's juvenile sexual offender laws which was conducted by the 2005 Task Force on Juvenile Sexual Offenders and Their Victims, as created in chapter 2005-263, Laws of Florida.

(3) The Secretary of Juvenile Justice shall appoint up to 12 members to the task force, including, but not limited to, a circuit court judge who has at least 1 year of experience in the juvenile division, a state attorney who has at least 1 year of experience in the juvenile division, a public defender who has at least 1 year of experience in the juvenile division, two representatives of the department, one member from the Florida Juvenile Justice Association, two members from providers of juvenile sexual offender services, one member from the Florida Association for the Treatment of Sexual Abusers, and one victim advocate.

(4) The task force shall:

(a) Review the findings and recommendations contained in the final report of the 2005 Task Force on Juvenile Sexual Offenders and Their Victims, including the recommendations specified in Appendix II of that report, and identify each recommendation that has not yet been implemented.

(b) Determine which recommendations reviewed under

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1 paragraph (a) remain appropriate for implementation.

2 (c) Make additional recommendations, if warranted, for
3 the improvement of the state's laws, policies, programs, and
4 funding for juvenile sexual offenders.

5 (d) Submit a written report to the Governor and the
6 appropriate substantive and fiscal committees of the
7 Legislature by January 1, 2007, which discusses each state law
8 addressing juvenile sexual offenders; specifically identifies
9 statutory criteria that should be satisfied before a juvenile
10 is classified as a sexual offender or placed in
11 sexual-offender programming; and sets forth detailed findings
12 in support of each recommendation under paragraphs (b) and (c)
13 and a comprehensive plan for implementing these
14 recommendations, including proposed amendments to statutes to
15 redefine the term "juvenile sexual offender" and modifications
16 of state agency rules, practices, and procedures.

17 (5) The department shall provide administrative
18 support for the task force. Members of the task force shall
19 receive no salary from the state beyond the salary already
20 received from their sponsoring agencies, but are entitled to
21 reimbursement by the department for travel and per diem
22 expenses under s. 112.061, Florida Statutes.

23 (6) The task force shall be dissolved upon submission
24 of its report.

25 Section 8. This act shall take effect July 1, 2006.

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